



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American Optical Corp.
File: B-228535
Date: February 9, 1988

DIGEST

Absent a clear showing that an agency's evaluation was unreasonable, or inconsistent with the stated evaluation criteria, exclusion of protester's proposal from the competitive range is warranted where agency evaluation finds the proposal unacceptable in two heavily-weighted evaluation factors and concludes that the proposal does not have a reasonable chance of being selected for award.

DECISION

American Optical Corp. protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. DAAK60-87-0083/J, issued by the Department of the Army for a cost-type contract for the design and fabrication of laser protective eyewear. The protester questions the agency's technical evaluation of its proposal, and alleges that the reasons underlying its exclusion were not valid.

We deny the protest.

The RFP was issued on August 14, 1987, with a closing date of September 14. According to the RFP, proposals were to be evaluated against three factors: Technical (weighted 4.3); Management (weighted 1.3); and Cost (weighted 1.0). Within the Technical factor were three subfactors listed in decreasing order of importance: Soundness of Technical Approach; Potential of Approach for Production; and System Safety Addressed. The two other factors each had three subfactors, none of which is relevant to this protest. The RFP specified that the Army's objective is to obtain battlefield eye protection that can be constructed with current technology.

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Eight proposals, including American's, were received, evaluated and scored under the RFP factors. Primarily as a result of relatively low scores on the Technical subfactors concerning soundness of approach and production potential, American's proposal was rated fifth overall and found to be technically unacceptable. Since the contracting officer determined that American did not have a reasonable chance of being selected for award, American was determined to be outside of the competitive range and its proposal rejected. Three proposals were determined to be within that range, and following discussions and the submission of best and final offers, award was made to Polaroid on September 30.

American's protest is essentially that the reasons the Army presented for its technically poor rating of the proposal were invalid. The protester contends that the Army evaluators misunderstood and misread its proposal, did not have an up-to-date appreciation of the viability of the technical approach American proposed, and was, therefore, unreasonably predisposed against the use of such an approach from the outset.

The evaluation of proposals and determination of whether an offeror is in the competitive range are matters within the discretion of the contracting agency since it is responsible for defining its needs and must bear the burden of any difficulties resulting from a defective evaluation. The International Association of Firefighters, B-224324, Jan. 16, 1987, 87-1 CPD ¶ 64. Consequently, we will not conduct a de novo technical review of the proposals. Our review is limited to examining whether the evaluation was fair and reasonable and consistent with the RFP criteria. Maxima Corp., B-220072, Dec. 24, 1985, 85-2 CPD ¶ 708. The fact that a protester may disagree with the agency's conclusion does not itself render the evaluation unreasonable. See TIW Systems, Inc., B-222585.8, Feb. 10, 1987, 87-1 CPD ¶ 140. For the reasons cited below, we do not believe that the protester has shown that the agency's judgment as to the feasibility of the approach proposed by American was unreasonable.

American proposed to manufacture the eyewear by using a hybrid approach which called for a dye to be molded into a polycarbonate lens for protection at one specified laser wavelength, and which called for applying 20 to 30 pairs (dielectric stacks) of reflective coatings to the lens for protection at a higher specified laser wavelength. The layers were to be applied using vacuum deposition while the lens was being bombarded with an ion beam.

The Army's evaluators concluded that American's proposal was deficient because it contained no mention of the known

difficulties to be expected from the deposition of such a large number of layers on plastic at the low temperatures that would be required. These problems were specifically detailed as shortcomings in adhesion, film integrity and durability. Moreover, the evaluation report states that American's proposal revealed that its experience in vacuum coating plastics was limited to a small number of layers and that it revealed no experience whatsoever with, nor equipment on-hand, for the ion beam assistance proposed. In sum, the Army's position is that, in comparison to the proposals submitted by more successful offerors, American's proposal involved the use of an unproven technique with unacceptable technical risks.

In response, American contends that it did, in fact, address the issues of durability, film integrity and adhesion in its proposal, and cites passages which it alleges prove its point. For example, the protester points out that its proposal stated that "special techniques are required to coat plastic" and "issues such as mismatch in thermal expansion coefficient must be taken into consideration." The agency responds that, while American's proposal did touch upon some of the issues, it failed to address how technical shortcomings were to be overcome by using its approach which apparently involves a manufacturing technique never before used with the large number of layers needed here. We have no basis upon which to disagree with the agency's judgment that the American proposal did not adequately treat anticipated fabrication problems inherent in its approach.

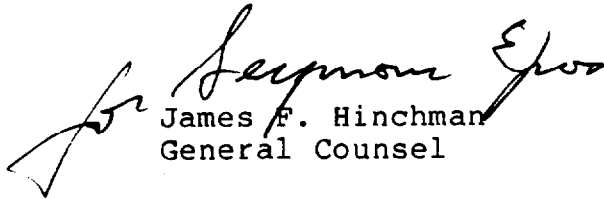
The protester also argues that its proposal did show that it had experience in the multi-layered vacuum deposition technique need to produce the items. We agree with the agency that neither the protester's proposal nor its submissions to our Office show that American had at the time of proposal submission produced a lens with anywhere near the 20 to 30 layer pairs that it admits are required to meet the Army's specifications. Moreover, we note that American has specifically admitted that the technical problems inherent in depositing so many coatings are not, in its own words, "trivial." Further, concerning the Army's conclusion that American lacked experience with ion beam assistance, the proposal nowhere discusses such experience.

Finally, American, at the protest conference, submitted a prototype multi-layered lens, which it produced after proposal submission as evidence of the viability of its proposed approach. We do not think that the prototype, which was admittedly not manufactured using the ion beam assistance method specified in the American proposal, shows that the agency's judgment concerning American's proposed approach was unreasonable. The agency's evaluation was

limited to the material in the American proposal, and a prototype fabricated after the evaluation, and using a different manufacturing approach, simply is not relevant to the matter before us. See Kinton, Inc., B-228233 et al., Jan. 28, 1988, 88-1 CPD ¶ ____.

In view of the above, we find no clear showing that the Army's reasons for finding American's proposal technically unacceptable were invalid.

The protest is denied.

James F. Hinchman
General Counsel